

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter Of)	
)	
Applications of)	
)	
Comcast Corp.,)	
Time Warner Cable, Inc.,)	
Charter Communications, Inc., and)	MB Docket No. 14-57
Spinco)	
)	
For Consent To Transfer Control of Licenses)	
and Authorizations)	

September 23, 2014

Response Comments of the Telecommunications Association of Maine

The Telecommunications Association of Maine (TAM)¹ files these comments in response to comments filed in the above captioned proceeding.²

On August 25, as part of this proceeding, a number of Maine Rural Local Exchange Carriers (RLECs), all of whom are members of TAM, filed a Petition to Deny the proposed merger between Time Warner Cable and Comcast. In their filing, the Maine RLECs highlighted an issue that very few other parties have focused on, namely Universal Service. TAM does not intend to duplicate the arguments made by the Maine RLECs, but rather we wish to emphasize a concern regarding the manner in which the proposed merger is reviewed.

In situations such as the one currently before the FCC, it is all too easy to revert to silo-thinking and pretend that video is a service completely unrelated to data, which is completely unrelated to voice, and make decisions as if an event in the converged telecommunications market exists in a vacuum. The reality is that voice, data and video

¹ TAM's members are FairPoint Communications of Northern New England, Northland Telephone Company, China Telephone Company, Maine Telephone Company, Standish Telephone Company, Sidney Telephone Company, Cobbooseecontee Telephone Company, Community Service Telephone Company, Hampden Telephone Company, Hartland & St. Albans Telephone Company, Somerset Telephone Company, The Islands Telephone Company, Warren Telephone Company, Oxford Telephone Company, Oxford West Telephone Company, Unitel Inc., Mid-Maine Telecom, LLC, Saco River Telegraph & Telephone Company, LLC, Pine Tree Telephone & Telegraph Company, LLC, Lincolnville Networks and Tidewater Telecom.

² TAM's position is the position of the Board of Directors as a whole and should not be ascribed to any individual company or companies. Individual companies are free to take their own positions as they deem appropriate, whether such position is in accordance with or in opposition to the position taken by TAM.

are all telecommunications services that are interrelated. A video provider is nothing more than a data provider whose data streams include video offerings. And yet the infrastructure that carries this video data is equally capable of carrying voice data or pure data. As such, when analyzing the competitive impact of a merger between any two telecommunications providers, the full range of what may be carried over their infrastructure must be considered when determining whether the resulting entity will have excessively high levels of market power that would allow it to force other competitors, whether they be video, voice or data, out of the market.

Beyond the question of whether the resulting merged entity would have the ability to exercise dominant market power to force competitors out of the market, there is the question on what the ancillary effects would be of a resulting merged entity that exercised its market power to cherry-pick video, voice and data customers in rural areas of the Nation. Without safeguards, the Federal law mandating comparable services at comparable rates for all telecommunications would swiftly fall by the wayside, and customers in rural America would run the risk of having significantly higher costs for comparable services due to the simple economics of providing service in high cost areas of the Nation. The easiest and most straightforward way to avoid this result is through the denial of the proposed merger. However, in the alternative, the FCC could adopt the same approach for video services that has benefitted voice and data customers throughout the Nation, namely treating video service as an unbundled network element.

The greatest hurdle to competition in the rural telecommunications market is the lack of availability of affordable video content. The reality is that small carriers lack the economies of scale necessary to negotiate one-on-one with content providers. Additionally, the investment in head-end capacity can be cost prohibitive for companies with relatively few customers compared to the major urban markets. This situation is similar to the conditions that existed for voice and data services in 1996, where the cost of replicating the dominant provider's network would have been so cost prohibitive as to be uneconomic. The solution Congress developed was a requirement that the dominant provider permit colocation at central offices and direct access to network elements to transport voice and data. The pricing for these network elements was cost plus a regulatorily established additive, called the Total Element Long Range Incremental Cost (TELRIC). This process helped to promote the current competitive market that exists today for voice and data. This did not help with video competition. Over the past decade, there has been an increasing gap between competitive opportunities for companies that can offer the "triple play" of voice, video, and data, and those companies who are limited in their opportunity to provide video service. The current regulatory disconnect between video and other telecommunications services acts to discriminate based on technology and population density to the direct and immediate detriment of rural America. This can be corrected by establishing some simple changes to promote true competition across the entire telecommunications spectrum.

Cable companies, such as Time Warner and Comcast, should be required to offer colocation at their head end units and access to transmission facilities at TELRIC pricing, just as the current voice and data providers do. This could then be combined with an obligation that companies "pass through" content to customers of competitors using a form of TELRIC pricing. This could work by requiring cable companies to allow access to content by a competitor exactly as if the customer of the competitor was a customer of the cable provider. The cable provider would pay the content providers the amounts they normally would pay for adding a new customer of their own under whatever contractual agreement exists at the time with the content provider. The competitive provider would then pay the cable provider a TELRIC rate for access, which would cover the cost to the cable provider under their contract with a regulatorily established additive. In this way, everyone will benefit. The content providers will get paid in the manner established by the privately negotiated contracts. The cable provider will have all costs covered plus an additional additive. The competitors will have access to content at competitive rates that are able to take advantage of the economies of scale enjoyed by the dominant market provider. The net effect will be a competitive structure that will help to ensure truly comparable services at comparable rates for all telecommunications services, as required by federal law. In this way, the clear anti-competitive dangers created by the proposed merger between Time Warner Cable and Comcast will be lessened, and the principles of Universal Service will be preserved.

Accordingly, TAM would urge that the Commission deny the proposed merger between Time Warner Cable and Comcast as requested by the Maine RLECs. In the alternative, TAM would propose that the Commission establish a process for deploying Video Unbundled Network Elements to promote true competition for all telecommunications services.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Sanborn", with a stylized flourish at the end.

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Telecommunications Association of Maine

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